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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,858	02/25/2004	Richard D. Bomba	87331NAB	3656
<div>7590 Mark G. Bocchetti Eastman Kodak Company Patent Legal Staff 343 State Street Rochester, NY 14650-2201</div>			<div>EXAMINER DANIELS, MATTHEW J</div>	
			<div>ART UNIT 1732</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/08/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/786,858

Applicant(s)

BOMBA ET AL.

Examiner

Matthew J. Daniels

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-37 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/25/04, 6/10/05.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
    - I. **Claims 38-40**, drawn to a method, classified in class 264, subclass 166.
    - II. **Claims 1-37 and 41**, drawn to an apparatus, classified in class 425, subclass 324.1.
  2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used to practice another and materially different process, such as (a) extruding or drawing and subsequent embossing of metal plates or sheets at room temperature or (b) applying fertilizer to a garden.
  3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, their recognized divergent subject matter, and because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
  4. During a telephone conversation with Nelson Blish on 27 December 2006, a provisional election was made without traverse to prosecute the invention of Group I, claims 38-40.
- Affirmation of this election must be made by applicant in replying to this Office action. Claims

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1-37 and 41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 38-40** are rejected under 35 U.S.C. 102(b) as anticipated by Takizawa (USPN 5512234). **As to Claim 38**, Takizawa teaches a method for producing a patterned web (Fig. 1, Item 4a) comprising the steps of:

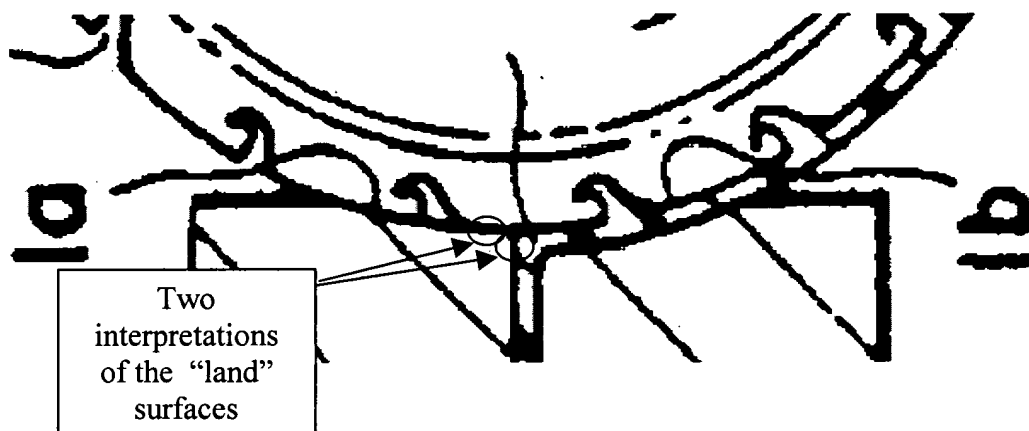
heating a material which comprises said web (1:25-33);  
pumping said material into a cavity at a controlled rate (1:25-33, inherent that the material is delivered at a controlled rate to produce non-varying product, item 4a);  
distributing said material over a length of a slot (see “flat plate” at 1:63);

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forcing said material into a cavity formed by a first external surface (Fig. 1, top half of item 1), a second external surface (Fig. 1, bottom half of item 1, and item 1b), and a surface of a patterned roller (Fig. 1, items 2 and 5).

by contact with a chilled roll (5:35-38), some of the material of Takizawa would have been inherently solidified in the cavity formed by the land surfaces.

Takizawa does not explicitly teach “land” surfaces. However, two interpretations of Takizawa’s method would fulfill the claimed “land” surfaces. See the portion of Fig. 1 of Takizawa reproduced below.



Portion of Fig. 1 of USPN 5512234

As to Claims 39 and 40, Takizawa teaches continuing solidification of said material on said patterned roller after it exits said cavity (6:36-44) and stripping the web from the patterned roller (6:45-47).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Prior art rejections should ordinarily be confined strictly to the best available art.

Exceptions may properly be made, for example, where: (A) the propriety of a 35 U.S.C. 102 or 103 rejection depends on a particular interpretation of a claim; (B) a claim is met only in terms by a reference which does not disclose the inventive concept involved; or (C) the most pertinent reference seems likely to be antedated by a 37 CFR 1.131 affidavit or declaration. Such rejections should be backed up by the best other art rejections available. See MPEP 706.02(I). In this case, the propriety of the 35 U.S.C. 102 rejection above depends on the particular interpretation of "land surface" set forth above. An additional rejection is presented below (a) in order to expedite prosecution, and (b) which presents prior art more similar to the invention disclosed in the instant drawings.

8. **Claims 38-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Takizawa (USPN 5512234) in view of Keogh (USPN 4246335). **As to Claim 38**, Takizawa teaches a method for producing a patterned web (Fig. 1, Item 4a) comprising the steps of:

heating a material which comprises said web (1:25-33);

pumping said material into a cavity at a controlled rate (1:25-33, inherent that the material is delivered at a controlled rate to produce non-varying product, item 4a);

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distributing said material over a length of a slot (see “flat plate” at 1:63);

forcing said material into a cavity formed by a first external surface (Fig. 1, top half of item 1), a second external surface (Fig. 1, bottom half of item 1, and item 1b), and a surface of a patterned roller (Fig. 1, items 2 and 5). It would have been inherent that the polymer of Takizawa would inherently solidify partially on the chilled (5:35-40) roller.

In the event that Takizawa cannot be interpreted to provide the claimed first “land surface” and second “land surface”, Keogh provides a manifold having first (Fig. 1, item 16) and second (Fig. 1, curvature on opposite side of manifold from item 16, or alternatively item 17) land surfaces. It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Keogh into that of Takizawa in order to (a) provide an integral doctor blade (2:57-60) and (b) provide a steady flow (3:6-7), which would provide a more uniform product.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 12/27/06

MJD

  
CHRISTINA JOHNSON  
SUPERVISORY PATENT EXAMINER  
11/2/07